

Farm Workers' Rights Related to Pesticides

Record-keeping and information:

Records: Users of highly toxic pesticides must keep records of their pesticide applications, and *must make pesticide label and application information available to a health professional who is treating a possible pesticide poisoning victim*. Source: Food, Agriculture, Conservation and Trade Act of 1990, P.L. 101-624, 104 Stat. 3627, 7 U.S.C. Section 136l-1. See 7 C.F.R. Part 110.

Information: In case of suspected pesticide poisoning, *the employer must provide the worker or the treating medical personnel with information from the pesticide label and information about how the suspected exposure occurred*.

Warnings: Workers who might enter a treated area or walk within ¼ mile of a treated area during application or an REI must be warned orally or by posting warning signs at the treated area or both.

Training: Field workers must be trained *before* their sixth day of entry into areas where within the last 30 days pesticides have been applied or an REI has been in effect. Pesticide handlers and early entry workers must be trained *before* they perform handler or early entry work. In addition, prior to handling or early entry activities workers must read the pesticide label or be informed of the label requirements for the specific products being used. But there is a five-year retraining interval for workers and handlers.

Posting: Employers must post in a central location, for a 30-day period, a list of all pesticides applied on the establishment. The list must contain the name of the pesticide, its EPA registration number, date and location of application, and restricted entry interval.

Restricted-entry intervals:

The WPS mandate generic restricted-entry intervals (REI) based on acute toxicity:

- 48 hours for category I*

- *The REI is increased to 72 hours for certain organophosphates in areas where average annual rainfall is less than 25 inches per year.

- 24 hours for category II

- 12 hours for categories III or IV

- 4 hours for “low risk” pesticides

Some products have specific REIs based on evaluations.

Transportation:

In case of suspected pesticide poisoning, the employer must make available prompt transportation to an appropriate medical facility.

Decontamination site:

Employers must provide field workers with a decontamination site for 30 days when they are working in a treated area where an REI of greater than 4 hours has been in effect within the past 30 days. Where only “low risk” pesticides have been used, a decontamination site need only be provided for 7 days.

Child Labor:

The Fair Labor Standards Act prohibits 10 and 11-year-old children from performing agricultural labor unless the employer can prove that children will not be working in fields to which pesticides have been applied or that there is proof that exposure to these pesticides is not harmful to children. Children under 16 are not allowed to apply toxicity category 1 pesticides. Children of any age can perform even hazardous work on farms owned or operated by their parents.

Personal protective equipment (PPE):

PPE as required by pesticide labels must be provided, cleaned, and maintained for early-entry workers and handlers. PPE ranges from long sleeves and long pants to gloves, goggles and full chemical resistant suits. Early-entry workers and handling must be provided a clean place to put on and take off PPE and to store personal clothing.

Labeling:

It is unlawful to use a pesticide in a manner inconsistent with its labeling. The label must contain the acute toxicity category ((I) for danger, (II) for warning, or (III) or (IV) for caution). The label must also specify the restricted entry interval (amount of time workers must stay out of the field after the pesticide is applied), required personal protective equipment (for applicators), first aid information, most acute effects (but generally not chronic effects), and the requirement to comply with the Worker Protection Standard.

Registration:

A pesticide must be registered before it can be sold in the United States. The Environmental Protection Agency (EPA) evaluates registration using a cost-benefit standard, considering each pesticide separately. About half of all the pesticides currently on the market have not been fully tested for chronic health effects.

Most of the above rights arise from the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the accompanying Worker Protection Standards (WPS), 40 C.F.R. Parts 156 and 170. Violators may face civil and criminal penalties, and retaliation against workers who attempt to comply is prohibited. The laws apply to agricultural employers, including growers and farm labor contractors. While the above summary of rights contains general information, a number of exceptions apply.